satisfied themselves that giving time raised strictly a legal defence, that it was a simple breach of contract. *Manley* v. *Boycott*, 2 E. & B. 46 (1853). The decisions and the doctrine of this period form the basis of the present rule in New Jersey and Maryland. *Yates* v. *Donaldson*, 5 Md. 389. In England, however, when the statute allowing equitable pleas at law took away the motive for searching out legal reasons for equitable defences, the courts speedily reverted to the original idea, and declared that the implied contract was pure fiction, that the defence was granted solely on the ground that it would be unjust for the creditor to take advantage of the surety's legal liability. *Pooley* v. *Harradine*, 7 E. & B. 431 (1857); *Greenough* v. *McClelland*, 2 E. & E. 424. This fact, and the fact that American courts almost unanimously have reached the same conclusion, give strong ground for believing the New Jersey position to be mistaken. This belief is made almost a certainty by a consideration of the long line of cases which, both in England and America, have held that although the creditor first learns of the suretyship relation after he has received the obligation, and therefore after the contract is complete, yet he can do nothing inconsistent with the surety's remedies without discharging him from liability. *Rouse* v. *Bradford Banking Co.* [1894], App. Cas. 586; *Colgrove* v. *Tallman*, 67 N. Y. 95. The defence then is equitable, and it would be theoretically correct to refuse to allow it in any case at law. But, as it is settled that it is admissible in one case, it seems illogical not to permit it in all.

CONTEMPT OF COURT. — The law concerning contempt of court is, from the nature of the offence, curiously vague and difficult to classify. A court has the power to punish summarily any person who interferes with its administration of the law. The power is absolute, not subject to review, limited only by the discretion of the court itself. The classification usually made of contempts in and contempts out of court seems of no value. Bishop, Criminal Law, 7th edit., Vol. II., § 261. All that can be done is to enumerate various instances of acts which are contempts and show in general with what functions of justice they interfere. The usual form of contempt is obstructing the administrative machinery of a court. A breach of good order in the court room is contempt because it hampers the court in the carrying on of its business; insulting a judge, adverse criticisms of decisions, inciting popular prejudice, *Reg.* v. *Skipworth*, 9 Q. B. D. 219, all are contempts as tending to bring the court into disrepute and to lessen its dignity and power; disobedience of an order of the court is an obvious offence against its administration of justice.

A different and less common class of contempts interferes with the work of the court in its strictly judicial functions; the ascertaining of law or fact. Tampering with witnesses or juries and the misconduct of juries or the court officers are serious impediments in the course of justice. A recent decision of the Supreme Court of Massachusetts, *The Telegram Newspaper Co.* v. *The Commonwealth*, *The Gazette Co.* v. *The Commonwealth*, October Sitting, 1898, manuscript, points out a new offence of a like nature. It appears that one Loring suffered by the taking of land by a town, and an unfortunate newspaper published that "the town offered Loring $80 at the time of the taking, but he demanded $250 and, not getting it, went to law." A like statement appeared in another paper. Both were promptly fined for contempt, and their appeal was dismissed. No

question arose as to the truth of the articles. The Supreme Court in the course of their opinion pointed out that the statements were objectionable only because they purported to state the amount of the offers of settlement — that this would not have been admissible in evidence at the trial, and so the natural and probable effect of it was to influence the court and jury improperly in the determination of the amount of damages in the cause. There can be no question of the correctness of the decision, but it is novel and interesting because of the emphasis which is put upon the fact that the offers of compromise which were reported would have been inadmissible as evidence. It is perhaps idle to expect — though not too much to require — that the paper which undertakes to deal with legal matters will make itself acquainted with the general rules of evidence. The case is a sign-post of real value.

CRIMINAL NEGLIGENCE. — The fatalities among infants caused by the vagaries of the sect known as the Peculiar People, a species of Christian Scientists, raise an interesting point in criminal law. At the trial on November 12 last of two of their number for the manslaughter of their infant child, *Regina* v. *Felton*, noted in The Law Journal, Nov. 19, 1898, it appeared that, though the child was ailing from its birth, its parents merely anointed it with oil in the name of the Lord. The post-mortem showed that the summons of a physician would have saved the infant's life. Mr. Justice Hawkins ruled that, if the defendants acted in the honest belief that they were doing their duty, they were not guilty of manslaughter. And so the jury found. The question whether the criminal law should accept the standard of the man of ordinary prudence, adopted on the civil side in cases of negligence, was squarely raised.

Negligence is one way of supplying a sufficient criminal intent to make a criminal act punishable. It is, then, of the first importance that some test be found by which the conduct of each defendant may be measured. There seem two possible rules. The first, which is the doctrine of the English cases, sets up what might be termed an internal standard. A man is judged by the actual condition of his mind as regards consequences — if he does not do his best according to his own lights, he is criminally negligent. *Regina* v. *Wagstaffe*, 10 Cox C. C. 530. A more recent English decision, while recognizing a common law immunity, was driven to a different result by 31 & 32 Vict. c. 122, § 37, which made it an offence for a parent wilfully to neglect to provide adequate medical aid for a child under fourteen years in his custody. *Regina* v. *Downes*, 13 Cox C. C. 111. A breach of this duty imposed by law, in itself a crime, supplied all the elements of manslaughter when it led directly to the death of a human being. The repeal of this statute by 52 & 53 Vict. c. 44, § 18, later consolidated with amendments in 57 & 58 Vict. c. 41, cleared the way for the direct application of common law principles to the present case. It is interesting to note that, since Mr. Justice Hawkins' ruling, section 1 of the latter statute has been so construed by the Court for Crown Cases Reserved as to restore the statutory law to the condition in which *Regina* v. *Downes* found it. *Regina* v. *Senior*, reported in The Law Journal, Dec. 17, 1898. But, apart from statute, the internal standard of guilt is the one adopted at common law by the English courts.

The other rule by which a defendant may be judged is that employed